

AMENDED IN SENATE AUGUST 15, 2005

AMENDED IN SENATE JUNE 27, 2005

AMENDED IN ASSEMBLY APRIL 12, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1636

Introduced by Assembly Member Umberg
(Coauthor: Senator Bowen)

February 22, 2005

An act to amend Sections 17301, 17302, and 19250 of, and to add Sections 19200.5 and 19223 to, the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 1636, as amended, Umberg. Voting systems.

(1) Existing law requires the Secretary of State to study and adopt regulations governing the use of voting machines, voting devices, and vote tabulating devices.

Existing law requires that an elections official keep, unopened and unaltered, certain voting documents for 22 months from the date of the election.

This bill would additionally require an elections official to keep paper record copies, if any, of voted polling place ballots.

(2) Existing law authorizes the Secretary of State to approve only those voting systems that meet specified requirements. Existing law requires elections officials using voting or vote tabulating equipment to inspect the machine or devices at least once every 2 years to determine their accuracy.

This bill would prohibit the Secretary of State from approving any voting system that permits a voter to exit a polling place with a facsimile of the ballot cast by that voter at that polling place. This bill would require the Secretary of State to conduct random audits of the software installed on direct recording electronic voting systems to ensure that the installed software is identical to the software that has been approved for use on that voting system. *This bill would require the Secretary of State to take steps to ensure that the process for conducting these random audits does not intentionally cause the voting system to become more vulnerable, as specified.*

(3) Existing law prohibits the Secretary of State from approving a direct recording electronic voting system unless the system has received federal qualification and includes a voter verified paper audit trail.

This bill would require all direct recording electronic voting systems to include a method by which a voter may electronically verify, through a nonvisual method, the information that is contained on the paper record copy of that voter's ballot. The bill would require that a paper record copy that is printed by a voter verified paper audit trail component be printed in the same language that the voter used when casting his or her ballot. The bill would prohibit a direct recording electronic voting system from being connected to the Internet at any time, receiving or transmitting official election results through an exterior communication network, or receiving or transmitting wireless communications or wireless data transfers.

By imposing additional duties on local elections officials this bill imposes a state-mandated local program.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 17301 of the Elections Code is amended to read:

17301. (a) The following provisions shall apply to those elections where candidates for one or more of the following offices are voted upon: President, Vice President, United States Senator, and United States Representative.

(b) The packages containing the following ballots and identification envelope shall be kept by the elections official, unopened and unaltered, for 22 months from the date of the election:

- (1) Voted polling place ballots.
- (2) Paper record copies, as defined by Section 19251, if any, of voted polling place ballots.
- (3) Voted absent voter ballots.
- (4) Absent voter identification envelopes.
- (5) Spoiled ballots.
- (6) Canceled ballots.
- (7) Unused absentee ballots surrendered by the voter pursuant to Section 3015.
- (8) Ballot receipts.

(c) If a contest is not commenced within the 22-month period, or if a criminal prosecution involving fraudulent use, marking or falsification of ballots or forgery of absent voters' signatures is not commenced within the 22-month period, either of which may involve the vote of the precinct from which voted ballots were received, the elections official shall have the ballots destroyed or recycled. The packages shall otherwise remain unopened until the ballots are destroyed or recycled.

SEC. 2. Section 17302 of the Elections Code is amended to read:

17302. (a) The following provisions shall apply to all state or local elections not provided for in subdivision (a) of Section 17301. An election is not deemed a state or local election if votes for candidates for federal office may be cast on the same ballot as votes for candidates for state or local office.

(b) The packages containing the following ballots and identification envelopes shall be kept by the elections official,

1 unopened and unaltered, for six months from the date of the
2 election:

3 (1) Voted polling place ballots.

4 (2) Paper record copies, as defined by Section 19251, if any,
5 of voted polling place ballots.

6 (3) Voted absent voter ballots.

7 (4) Absent voter identification envelopes.

8 (5) Spoiled ballots.

9 (6) Canceled ballots.

10 (7) Unused absent voter ballots surrendered by the voter
11 pursuant to Section 3015.

12 (8) Ballot receipts.

13 (c) If a contest is not commenced within the six-month period,
14 or if a criminal prosecution involving fraudulent use, marking or
15 falsification of ballots or forgery of absent voters' signatures is
16 not commenced within the six-month period, either of which may
17 involve the vote of the precinct from which voted ballots were
18 received, the elections official shall have the packages destroyed
19 or recycled. The packages shall otherwise remain unopened until
20 the ballots are destroyed or recycled.

21 SEC. 3. Section 19200.5 is added to the Elections Code, to
22 read:

23 19200.5. The Secretary of State shall not approve any voting
24 system that permits a voter to exit a polling place with a
25 facsimile of the ballot cast by that voter at that polling place.

26 SEC. 4. Section 19223 is added to the Elections Code, to
27 read:

28 19223. The Secretary of State shall conduct random audits of
29 the software installed on direct recording electronic voting
30 systems, as defined in Section 19251, to ensure that the installed
31 software is identical to the software that has been approved for
32 use on that voting system. *The Secretary of State shall take steps*
33 *to ensure that the process for conducting random audits does not*
34 *intentionally cause a direct recording electronic voting system to*
35 *become more vulnerable to any unauthorized changes to the*
36 *software that has been approved for its use.*

37 SEC. 5. Section 19250 of the Elections Code is amended to
38 read:

39 19250. (a) On and after January 1, 2005, the Secretary of
40 State shall not approve a direct recording electronic voting

1 system unless the system has received federal qualification and
2 includes an accessible voter verified paper audit trail.

3 (b) On and after January 1, 2006, a city or county shall not
4 contract for or purchase a direct recording electronic voting
5 system unless the system has received federal qualification and
6 includes an accessible voter verified paper audit trail.

7 (c) As of January 1, 2006, all direct recording electronic
8 voting systems in use on that date, regardless of when contracted
9 for or purchased, shall have received federal qualification and
10 include an accessible voter verified paper audit trail. If the direct
11 recording electronic voting system does not already include an
12 accessible voter verified paper audit trail, the system shall be
13 replaced or modified to include an accessible voter verified paper
14 audit trail.

15 (d) All direct recording electronic voting systems shall include
16 a method by which a voter may electronically verify, through a
17 nonvisual method, the information that is contained on the paper
18 record copy of that voter's ballot.

19 (e) A paper record copy that is printed by a voter verified
20 paper audit trail component shall be printed in the same language
21 that the voter used when casting his or her ballot on the direct
22 recording electronic voting system.

23 (f) A direct recording electronic voting system shall not be
24 connected to the Internet at any time.

25 (g) A direct recording electronic voting system shall not be
26 permitted to receive or transmit official election results through
27 an exterior communication network, including the public
28 telephone system.

29 (h) A direct recording electronic voting system shall not be
30 permitted to receive or transmit wireless communications or
31 wireless data transfers.

32 SEC. 6. If the Commission on State Mandates determines that
33 this act contains costs mandated by the state, reimbursement to
34 local agencies and school districts for those costs shall be made
35 pursuant to Part 7 (commencing with Section 17500) of Division
36 4 of Title 2 of the Government Code.